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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1675**

State of Minnesota,
Respondent,

vs.

Tyrel Traverse Ambuehl,
Appellant.

**Filed September 2, 2025
Affirmed
Kirk, Judge***

Becker County District Court
File No. 03-CR-24-367

Keith Ellison, Attorney General, Jacob Campion, Assistant Attorney General, St. Paul, Minnesota; and

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Leah C. Graf, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Johnson, Judge; and
Kirk, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

KIRK, Judge

Appellant challenges his conviction of second-degree assault with a dangerous weapon, arguing that (1) the district court committed plain error by admitting inadmissible character and other-act evidence, (2) the prosecutor committed misconduct by using inflammatory language and misstating the law, and (3) the cumulative effect of these errors denied him a fair trial. Appellant raises several additional claims in a pro se supplemental brief. We affirm.

FACTS

Respondent State of Minnesota charged appellant Tyrel Traverse Ambuehl with second-degree assault with a dangerous weapon, in violation of Minn. Stat. § 609.222, subd. 1 (2022), and felony domestic assault, in violation of Minn. Stat. § 609.2242, subd. 4 (2022). Ambuehl and the victim, C.L., were romantic partners.

Before trial, the state moved to admit body-camera video of Ambuehl’s arrest, as well as testimony “show[ing] the strained relationship between [Ambuehl] and [C.L.], to give proper context to the charges stemming from th[e] incident, and to demonstrate [Ambuehl]’s intent and/or lack of mistake.” Ambuehl did not object.

The state’s witnesses included C.L., the 911 operator who took C.L.’s call, and the responding officer. C.L. testified that on March 4, 2024, Ambuehl confronted her about a video he found on her cell phone. During the argument that followed, Ambuehl struck C.L. with an aluminum baseball bat, knocked her to the floor, and continued assaulting her. C.L. reported the assault the following morning. The 911 operator testified that on March

5, 2024, C.L. called and reported that she had a “rough night” the night prior. She stated that she was at her mother’s house, that Ambuehl was sitting in her car, and that she needed to have him removed. The responding officer testified that he took C.L.’s statement and observed an “elongated bruise,” that extended “from [C.L.’s] bicep to [the] back of her shoulder.” The bruise was “dark purple, reddish in color,” and “in the shape of a baseball bat.” The state played the officer’s body-camera video for the jury. Ambuehl did not object to the video or the testimony.

At the close of evidence, the district court provided the jury the following instruction:

You have heard evidence of alleged conduct by the defendant on a prior occasion or occasions other than March 4, 2024. As I told you at the time this evidence was offered, it was admitted for the limited purpose of demonstrating the nature and extent of the relationship between the defendant and [C.L.] in order . . . to assist you in determining whether the defendant committed those acts with which [the defendant] is charged in the complaint. This evidence is not to be used to prove the character of the defendant or that the defendant acted in conformity with such character.

The jury found Ambuehl guilty on both counts. The district court imposed a 71-month sentence for the second-degree assault conviction and imposed no sentence for the domestic-assault conviction. This appeal followed.

DECISION

Judicial Plain Error

Ambuehl argues that the district court plainly erred by admitting approximately 30 statements from witness testimony and the body-camera video that, he contends, were

inadmissible character and other-acts evidence. The state argues that most of the challenged statements are admissible as relationship evidence, and that any inadmissible statements were harmless. Because Ambuehl did not object to the challenged statements at trial, we review his claims for plain error.

To establish reversible error under the plain-error test, an appellant must show “(1) an error (2) that is plain (3) that affects a defendant’s substantial rights.” *State v. Beganovic*, 991 N.W.2d 638, 655 (Minn. 2023). “An error is plain if it is clear or obvious, which is typically established if the error contravenes case law, a rule, or a standard of conduct.” *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted). If an appellant satisfies all three prongs of the plain-error test, we may correct the error “only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *State v. Crowsbreast*, 629 N.W.2d 433, 437 (Minn. 2001) (quotation omitted).

Minnesota Statutes section 634.20 provides that “[e]vidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice.” “Domestic conduct” under the statute “includes, but is not limited to, evidence of domestic abuse” as defined by Minn. Stat. § 518B.01, subd. 2(a) (2022). Minn. Stat. § 634.20 (2022). Under Minn. Stat. § 518B.01, subd. 2(a), “[d]omestic abuse” includes “physical harm, bodily injury, or assault” or “the infliction of fear of imminent physical harm, bodily injury, or assault” committed against a family or household member.

“Relationship evidence is relevant because it illuminate[s] the history of the relationship between the victim and defendant and may also help prove motive or assist the jury in assessing witness credibility.” *State v. Matthews*, 779 N.W.2d 543, 549 (Minn. 2010) (quotation omitted). The supreme court has said that evidence of prior “acts of violence committed by the same defendant against the same victim” has “inherent [probative] value.” *State v. Williams*, 593 N.W.2d 227, 236 (Minn. 1999). We also recognize the probative value of relationship evidence that illustrates a victim’s fear of the defendant or the defendant’s past attempts to “manipulate, control, and restrain” a victim. *State v. Andersen*, 900 N.W.2d 438, 441 (Minn. App. 2017). And evidence showing “how a defendant treats his family or household members, such as his former spouses or other girlfriends,” is relevant because it “suggests how the defendant may interact with the victim.” *State v. Valentine*, 787 N.W.2d 630, 637 (Minn. App. 2010), *rev. denied* (Minn. Nov. 16, 2010).

We conclude that most of the statements that Ambuehl challenges on appeal are admissible relationship evidence under section 634.20. Before turning to the statements that we conclude are not admissible as relationship evidence, we briefly address several arguments raised by Ambuehl.

Ambuehl argues first that, even if the challenged statements meet the definition of relationship evidence, the statements are not admissible as such because they were not identified before trial and the district court did not provide a limiting instruction to the jury regarding their proper use. Ambuehl’s argument is unavailing because section 634.20 evidence is presumptively admissible, *Andersen*, 900 N.W.2d at 442, and is not subject to

the procedural safeguards applicable to 404(b) evidence; *State v. Bell*, 719 N.W.2d 635, 638-39 (Minn. 2006). Furthermore, the district court gave a limiting instruction at the close of evidence, and, because Ambuehl did not object at trial, the district court was not required to give an instruction sua sponte and contemporaneous with each statement. *See State v. Zinski*, 927 N.W.2d 272, 279 (Minn. 2019) (requiring a defendant “to object to the admission of relationship evidence under Minn. Stat. § 634.20 before a district court is required to provide a cautionary instruction”).

Ambuehl also argues that the district court failed to weigh the probative value of the statements against the danger of unfair prejudice. But with respect to the statements that we conclude meet the definition of relationship evidence, Ambuehl does not explain how the district court’s allegedly insufficient analysis resulted in prejudice affecting his substantial rights. *See State v. O’Meara*, 755 N.W.2d 29, 33 n.1 (Minn. App. 2008).

We next address the statements that are not admissible under section 634.20. We conclude that even if admitting these statements constituted plain error, Ambuehl fails to establish that the error affected his substantial rights. To satisfy the substantial-rights prong of the plain-error test, Ambuehl bears the burden to establish that there is “a reasonable likelihood that the absence of the error would have had a significant effect on the jury’s verdict.” *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016) (quotation omitted). Our analysis under this prong of the plain-error test “is the equivalent of a harmless error analysis.” *State v. Matthews*, 800 N.W.2d 629, 634 (Minn. 2011). To determine whether an appellant meets his burden, we consider several nonexclusive factors, including: “(1) the manner in which the party presented the evidence, (2) whether the evidence was highly

persuasive, (3) whether the party who offered the evidence used it in closing argument, and (4) whether the defense effectively countered the evidence.” *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024) (quotation omitted). Additionally, “[s]trong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.*

The remaining inadmissible statements include: C.L.’s statements that Ambuehl “works hard at sabotaging a lot of sh-t”; “needs help” to understand “right and wrong”; probably ran when she called the police; that she “sold her [friend] a coin” to provide Ambuehl money to “beat” his addiction; and that she supported Ambuehl through his “other cases,” including an assault case in which he “fought for her.” The inadmissible statements also include the 911 operator’s testimony that he told responding officers that Ambuehl was likely to run; Ambuehl’s statements to the responding officer that he needed to attend court or he would lose his bond money; and that C.L. supported him through his “other cases.”

Manner Presented

Ambuehl contends that the challenged statements featured prominently at trial because the state used the evidence throughout its case and the statements appear on 18 of 122 trial transcript pages. But Ambuehl’s accounting assumes that all of the statements he challenges are inadmissible. Excluding the statements that we conclude are admissible, the record shows that the inadmissible statements appear on just two transcript pages and that the state did not rely on the statements during its opening statement, closing argument, or redirect examinations. *See id.* at 56 (concluding that challenged statements occupying 12 pages of 300-page trial transcript were not prominently presented); *State v. Al-Naseer*,

690 N.W.2d 744, 749-50 (Minn. 2005) (concluding that evidence was prominently presented because state mentioned it during opening statement, closing argument, and during direct and cross-examination).

Persuasive Value

Ambuehl argues that the statements were highly persuasive because they included his own statements referencing his bond money and “other cases.” He cites *State v. Chavarria-Cruz* for support. 784 N.W.2d 355 (Minn. 2010). In *Chavarria-Cruz*, the district court erroneously admitted a defendant’s confession and the supreme court concluded that, “[g]iven the powerful evidentiary value of [a defendant]’s confession, . . . the error in admitting the statement was not harmless.” *Id.* at 365. *Chavarria-Cruz* does not apply here, however, because unlike the defendant’s statements in that case, Ambuehl’s statements do not include a confession to the charged crime.

Use of the Evidence in Closing Argument

This factor weighs against concluding that the errors affected Ambuehl’s substantial rights because the state did not reference or rely on any of the inadmissible statements in closing. *See Al-Naseer*, 690 N.W.2d at 749-50.

Effectively Countered

Ambuehl argues that he could not effectively counter the prejudice of statements referencing his “other cases,” his substance addiction, or the likelihood that he would flee the police, without drawing more attention to them. We agree that this factor weighs in favor of concluding that several of the errors affected Ambuehl’s substantial rights.

Strength of the Evidence

Ambuehl argues that, because C.L.’s testimony was “inconsistent” and she admitted to a “really blurry” recollection of events, the evidence against him was not strong and therefore did not undermine the prejudicial effect of the erroneously admitted statements.

We disagree. The record shows that, although C.L. had some difficulty recalling specific days of the week, her testimony regarding the assault was generally consistent, and was corroborated by her bruising and by her and Ambuehl’s statements in the body-camera videos. Overall, the strength of the state’s case undermines the persuasive value of any of the erroneously admitted statements.

In sum, the factors weigh against concluding that any error in admitting the challenged statements affected Ambuehl’s substantial rights. Ambuehl therefore fails to establish plain error warranting reversal of his conviction.

Prosecutorial Misconduct

Ambuehl argues that the prosecutor committed misconduct by (1) “injecting broader social issues” into the trial, (2) “inflaming the passions and prejudices of the jury,” and (3) misstating the law.

Ambuehl did not object at trial. We review unobjected-to prosecutorial misconduct under a modified plain-error test. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). Under the test, if Ambuehl meets his initial burden to establish that the prosecutor’s conduct was plain error, the burden shifts to the state to establish that the error did not affect Ambuehl’s substantial rights. *Id.*

Injecting Broader Social Issues into the Trial

First, Ambuehl argues that the prosecutor impermissibly invoked public-safety concerns in his opening statement, and, in closing argument, asked the jury to “send a message” to perpetrators of domestic violence. He challenges statements from this portion of the prosecutor’s opening statement:

This case is about safety. In fact, that’s what much of the criminal law is about. It’s about protecting people’s safety, protecting society’s safety, protecting a person’s ability to feel safe in their own home. And the defendant, by his actions, violated this safety. The defendant, by his actions, didn’t make [C.L.] feel safe. And as we’ll prove, in fact, he’s the reason that she wasn’t safe.

He also challenges statements from another portion of the prosecutor’s closing argument:

Holding an abuser accountable is a daunting task.

[C.L.] told the authorities [about the assault] on the morning of March 5th. Now four months later she obeyed a subpoena, she came here in this courtroom, she took an oath, she testified in front of each of you. Even with that fear of judgment she testified in front of you and right in front of her abuser.

Now it’s your turn in this process, ladies and gentlemen. I ask that you find [Ambuehl] guilty.

We view a prosecutor’s statements “as a whole, rather than just selective phrases or remarks that may be taken out of context or given undue prominence to determine whether reversible error has occurred.” *State v. Waiters*, 929 N.W.2d 895, 901 (Minn. 2019) (quotation omitted). A prosecutor must not “make statements urging the jury to protect society or to send a message with its verdict,” *State v. Duncan*, 608 N.W.2d 551, 556

(Minn. App. 2000), *rev. denied* (Minn. May 16, 2000), but “a minimal, specific appeal to the jury to hold the defendant accountable for a crime he is charged with having committed is not improper,” *State. v. Morton*, 701 N.W.2d 225, 238 (Minn. 2005).

We discern no impropriety in the prosecutor’s statements. While the prosecutor told the jury that criminal law is about protecting “*people’s safety*,” he specified that the issue in this case is “*C.L.’s safety*.” As to his closing argument, the prosecutor indicated that C.L. took steps to hold Ambuehl accountable, and told jurors it was their “turn in the process.” The prosecutor did not directly, or even indirectly, ask jurors to “send a message,” and we conclude that his argument was a minimal, specific appeal for the jury to hold Ambuehl accountable for the charged crime.

Second, Ambuehl claims that the prosecutor inflamed the passions of the jury by referring to him in closing argument as an “abuser.” Prosecutors are afforded “considerable latitude” during closing arguments and are not required to “make a colorless argument.” *State v. Williams*, 586 N.W.2d 123, 127 (Minn. 1998). A prosecutor “must refrain from making statements that will inflame the passions or prejudices of the jury,” *Duncan*, 608 N.W.2d at 556, but is entitled to use “reasonable and descriptive” language to convey the state’s version of the facts of a case, *State v. Radke*, 821 N.W.2d 316, 330 (Minn. 2012). Here, Ambuehl was charged with domestic abuse, and we conclude that it was not unreasonable for the prosecutor to describe him as an “abuser.”

Misstatement of the Law

Next, Ambuehl argues that the prosecutor made multiple misstatements of law in the following portion of his closing argument:

Now as it relates to the second-degree assault second element, this is a little more nuanced. It's a little more in the weeds. Definition of a dangerous weapon it includes any other device or instrumentality that in the manner it is used or intended to be used is calculated to produce death or likely to produce death or great bodily harm. Now I ask you not to get too focused on this specific case when you analyze this. We're not talking about hitting someone in the arm, we're talking about the act of taking an aluminum baseball bat and swinging it at another human being. What could be the result from that? Brain damage? Vision loss? Permanent fractures? This is the one unique area of the law where you get to speculate. Usually speculation is not allowed. When we're talking about the use of a dangerous weapon you get to speculate what could have happened. Thankfully it didn't happen in this case, I'm sure that hurt really bad, but fortunately there's nothing other than some bruising in this case, but what could have happened when you swing an aluminum bat at another human being. I submit to you that element has been proven and satisfied.

First, Ambuehl argues that the prosecutor's argument conveyed to jurors that they could rely on "speculation," rather than the evidence in the record, to determine whether the state proved the dangerous-weapon element. But we construe the prosecutor's argument as an attempt to explain to the jury that, in determining whether the element was met, the question was whether Ambuehl's use of the bat was *calculated* or *likely* to produce death or great bodily harm, and not whether C.L. in "this specific case" in fact *suffered* death or great bodily harm. Although the argument was not clearly articulated, it is not clear or obvious to us that it constituted a misstatement of the law.

Second, Ambuehl argues that, by asking jurors to consider if death or great bodily harm "could" happen when a person is struck with a baseball bat, the prosecutor advanced a "lower threshold" than whether death or great bodily harm is "likely," and therefore "probable or reasonably expected." See *State v. Abdus-Salam*, 1 N.W.3d 871, 877 (Minn.

2024) (holding that “‘likely’ means ‘probable or reasonably expected’ in the context of the manner-of-use definition of a dangerous weapon”). Because we agree, and the state concedes the issue, we must determine whether the state has met its burden to show that there is no reasonable likelihood that the absence of the misstatement would have had a significant effect on the verdict of the jury. *State v. Portillo*, 998 N.W.2d 242, 251 (Minn. 2023).

In making that determination, “we consider the strength of the evidence against the defendant, the pervasiveness of the improper suggestions, and whether the defendant had an opportunity to (or made efforts to) rebut the improper suggestions. *Id.*

The state argues that the misstatement did not affect Ambuehl’s substantial rights because the evidence against him was strong, the misstatement was limited to a few sentences, and Ambuehl had an opportunity to immediately rebut it.

As discussed above, we agree that the evidence against Ambuehl was strong. We also agree that the misstatement was brief and therefore not pervasive. Finally, we conclude that Ambuehl had an opportunity to rebut the misstatement in his closing argument and made no attempt to do so. The prosecutor’s misstatement did not affect Ambuehl’s substantial rights.

Cumulative Effect of the Errors

Finally, Ambuehl argues that, even if the judicial and prosecutorial errors were individually harmless, the cumulative effect of the errors denied him a fair trial.

The cumulative effect of trial errors may warrant a new trial in “‘rare cases’ where the errors, when taken cumulatively, have the effect of denying [the] appellant a fair trial.”

State v. Fraga, 898 N.W.2d 263, 278 (Minn. 2017) (quotation omitted). “When considering a claim of cumulative error, we look to the egregiousness of the errors and the strength of the [s]tate’s case.” *Id.* Generally, “we are more inclined to order a new trial for cumulative errors in very close factual cases.” *Id.* at 279.

Here, Ambuehl argues that the errors “worked in concert” to deprive him of a fair trial because the prosecutorial errors compounded the district court’s evidentiary errors. We disagree. First, any erroneously admitted evidence portrayed Ambuehl as a person with a criminal history who suffers from substance addiction, but that portrayal is unrelated to, and therefore not compounded by, the prosecutor’s misstatement concerning the manner-of-use definition of a dangerous weapon. Second, Ambuehl alleged a number of egregious errors but failed to establish that they were in fact errors. And, given the strength of the state’s case, we conclude that the remaining errors are not so egregious that their cumulative effect denied him a fair trial.

Pro Se Claims

In a pro se supplemental brief, Ambuehl argues that (1) his trial counsel was constitutionally ineffective, (2) the prosecutor suborned perjury, and (3) the evidence was insufficient to sustain his conviction.

Ineffective Assistance of Counsel

Ambuehl argues that he received ineffective assistance of counsel because defense counsel failed to interview alibi witnesses and law enforcement officers, and failed to obtain court records, phone records, expert witnesses, and social-media posts. A postconviction proceeding is the proper forum for Ambuehl’s ineffective-assistance claim

because the existing record contains no evidence as to why, or even if, defense counsel failed to investigate an alibi, obtain evidence, or call witnesses. Thus, because the record is “devoid of the information needed to explain the attorney’s decisions . . . any conclusions reached by this court would be pure speculation.” *State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000) (declining to reach appellant’s ineffective-assistance-of-counsel claim but preserving appellant’s right to pursue it in a petition for postconviction relief).

Prosecutorial Misconduct

Ambuehl argues that the prosecutor committed misconduct by suborning perjury because, although he was charged with assaulting C.L. on or about March 4, C.L. testified that she was assaulted on March 3. A person commits perjury when the person, under oath, “makes a false material statement not believing it to be true.” Minn. Stat. § 609.48, subd. 1(1) (2022).

The record reflects that C.L. testified consistently that she was assaulted the day prior to her March 5 911 call. The record also shows that, on cross-examination, C.L. was asked whether she remembered the date of her assault and she replied: “No. The 3rd. I don’t even know.” Ambuehl provides no evidence that C.L. did not believe her statements to be true, and, consequently, no evidence that the prosecutor suborned perjury.

Insufficient Evidence

Ambuehl argues that the evidence is insufficient to sustain his conviction because the state needed to prove that he inflicted “substantial” or “great bodily harm,” and proved only that “[C.L.] had two bruises.” Ambuehl is incorrect. To prove that Ambuehl assaulted C.L., in violation of Minn. Stat. § 609.222, subd. 1, the state needed to prove that he

“intentional[ly] inflict[ed] . . . or attempt[ed] to inflict bodily harm” upon C.L., while using a “device or instrumentality” in a manner “calculated or likely to produce death or great bodily harm.” *See* Minn. Stat. § 609.02, subds. 10(2) (defining “assault”), 6 (defining “dangerous weapon”) (2022); *Abdus-Salam*, 1 N.W.3d at 877 (defining “likely” to mean “probable or reasonably expected”).

Accordingly, we decline to reach Ambuehl’s ineffective-assistance claim, and his claims of prosecutorial misconduct and insufficient evidence fail.

Affirmed.